

¹ Plaintiff's complaint does not contain any allegation relating to any liability that either "Cloumbia [sic] Insurance Group" or Equity Insurance may have in this matter.

Federal courts are courts of limited jurisdiction, and there is a presumption against the exercise of federal jurisdiction. Merida Delgado v. Gonzales, 428 F.3d 916, 919 (10th Cir. 2005); Penteco Corp. Ltd. Partnership-1985A v. Union Gas System, Inc., 929 F.2d 1519, 1521 (10th Cir. 1991). Plaintiff has the burden to allege jurisdictional facts demonstrating the presence of federal subject matter jurisdiction. McNutt v. General Motors Acceptance Corp. of Indiana, Inc., 298 U.S. 178, 182 (1936) (“It is incumbent upon the plaintiff properly to allege the jurisdictional facts, according to the nature of the case.”); Montoya v. Chao, 296 F.3d 952, 955 (10th Cir. 2002) (“The burden of establishing subject-matter jurisdiction is on the party asserting jurisdiction.”). The Court has an obligation to consider whether subject matter jurisdiction exists, even if the parties have not raised the issue. The Tenth Circuit has stated that “[f]ederal courts ‘have an independent obligation to determine whether subject-matter jurisdiction exists, even in the absence of a challenge from any party,’ and thus a court may sua sponte raise the question of whether there is subject matter jurisdiction ‘at any stage in the litigation.’” 1 Image Software, Inc. v. Reynolds & Reynolds Co., 459 F.3d 1044, 1048 (10th Cir. 2006).

In this case, because plaintiff is proceeding pro se, the Court will construe his pleadings liberally when considering the allegations of his complaint. Haines v. Kerner, 404 U.S. 519, 520 (1972); Gaines v. Stenseng, 292 F.3d 1222, 1224 (10th Cir. 2002). Plaintiff’s complaint does not allege any basis for federal subject matter jurisdiction and, regardless of plaintiff’s pro se status, the Court can not permit plaintiff to proceed with the lawsuit if the Court lacks subject matter jurisdiction over his claims. While plaintiff now alleges an amount in controversy exceeding \$75,000, he has still not alleged that the parties are diverse. Thus, there is no possibility that the Court could exercise diversity jurisdiction under 28 U.S.C. § 1332(a).

IT IS THEREFORE ORDERED that plaintiff's case is **dismissed** for lack of subject matter jurisdiction. A separate judgment of dismissal is entered herewith.

IT IS FURTHER ORDERED that plaintiff's motion for leave to proceed in forma pauperis (Dkt. # 2) is **moot**.

DATED this 16th day of June, 2009.


CLAIRE V. EAGAN, CHIEF JUDGE
UNITED STATES DISTRICT COURT